

**2013 Legislative Session**  
**Bills of Interest to the Courts & Probation**  
**104<sup>th</sup> Legislature**

*All legislation is effective September 6, 2013, unless otherwise noted.*

Bill No.	Section (if applicable)	DESCRIPTION AND SUMMARY OF BILL	EFFECTIVE DATE
3	Section 2  Section 5	Fraudulently filing a financing statement, lien, or document is a Class IV felony.  The claimant recording a nonconsensual common-law lien shall have notice of the recording of the lien served by sheriff upon the owner of the real property. A judicial proceeding to enforce a nonconsensual common-law lien shall be instituted by the claimant within ten days after recording the lien. Failure to serve a copy of the recorded lien upon the owner or failure to file a judicial proceeding to enforce the lien shall cause the lien to lapse.	May 20, 2013
21		Workers' Compensation Court – Eliminate sunset provisions for certain benefits.	
44	Section 2  Section 3	The penalty for any person convicted of a Class IA felony for an offense committed when such person was under the age of eighteen years shall be a maximum sentence of not greater than life imprisonment. Also sets out mitigating factors.  If an offender who was under the age of eighteen years when he or she committed the offense for which he or she was convicted and incarcerated is denied parole, he/she shall be considered for release on parole by the Board of Parole every year after the denial. Also sets out factors for consideration by the Board.	
99	Section 3	Any law enforcement officer, prosecutor, defense attorney, or probation officer, unless restricted by privilege, who becomes aware of racial profiling by a law enforcement agency, shall report it to the Nebraska Commission on Law Enforcement and Criminal Justice within thirty days after becoming aware of such practice.	
103	Section 1  Section 2	A judge, in any case with the consent of the parties, may permit any witness who is to be examined by oral examination to appear by telephonic, videoconferencing, or similar methods, with any costs thereof to be taxed as costs.  Removes language "telephonic and videoconference hearings allowed under this section shall not be in conflict with 24-734."	

107		A hearing is not required for the parenting plan if both parties have waived in writing the requirement for a hearing, the court has jurisdiction over the action and the parties, and all documents required by the court and by law have been filed, and the parties have entered into a written agreement, signed by the parties under oath, resolving all issues presented by the pleadings.	
141		Workers' Compensation Bill of Exceptions and motions.	
154		Adds utility service vehicle to the list of road assistance vehicles to which a motorist must yield.	
158	Section 1 & 2	Removes language which prohibits subsequent interlock device orders and restricts driving uses on interlock.	<b>April 25, 2013; operative July 1, 2013</b>
	Section 3	Prohibits return of driving privileges if interlock ordered was not installed.	
	Section 5	Removes language regarding permitted driving uses on interlock.	
169		Allows clerks of district court in counties with population of not more than seventy-five thousand inhabitants, to be ex-officio jury commissioner. (Up from 50 thousand.)	
172	Section 1	After the death of a ward, interested person also includes the personal representative of a deceased ward's estate, the deceased ward's heirs in an intestate or testate estate.	
	Sections 2 & 3	The guardian or conservator shall file with the court a certificate of mailing showing that copies of inventory were sent to all interested persons by first-class mail along with a notice to interested persons.	
210		In an action filed with the district court under the Uniform Commercial Code regarding a termination or financial statement, the court may issue an order of preliminary relief or a final judgment. Outlines the effects of those orders.	
216	Section 8	<p>The Young Adult Voluntary Services and Support Act.</p> <p>Within 45 days of HHS and young adult signing a Voluntary Services and Support Agreement, HHS shall file a petition with the juvenile court giving the young adult's identifying information, address, situation, a copy of the voluntary services and support agreement, case plan, etc.</p> <p>The agreement should be signed at the last court hearing before the juvenile is discharged from foster care.</p> <p>The court shall make the best interest's determination not later than one hundred eighty</p>	<b>June 5, 2013; operative January 1, 2014</b>

	<p>days after the young adult and the Department enters into the voluntary services and support agreement.</p> <p>The court shall conduct a hearing regarding the voluntary services and support agreement at least once per year and at additional times at the request of any party to the proceeding.</p> <p>The juvenile court may request the appointment of a hearing officer pursuant to section 24-230 to conduct permanency review hearings. The department is not required to have legal counsel present at such hearings.</p> <p>The court shall consult with the young adult regarding the proposed permanency or transition plan for the young adult. The young adult shall have a clear self-advocacy role in the permanency review and the hearing shall support the active engagement of the young adult in key decisions.</p> <p>Permanency reviews shall be conducted in an informal manner and, whenever possible, outside of the courtroom.</p>	
Section 9	<p>The department shall prepare and present to the juvenile court a report, addressing progress made in meeting the goals in the case plan, and shall propose modifications as necessary.</p> <p>The court shall determine whether the department is providing the appropriate services and support as provided in the voluntary services and support agreement. If the court believes that the young adult requires additional services and support to achieve the goals documented in the case plan or under the department's policies or state or federal law, the court may order the department to take action to ensure that the young adult receives the identified services and support.</p> <p>The department and at least one person who is not responsible for case management, in collaboration with the young adult and additional persons identified by the young adult, shall conduct periodic case reviews consistent with 42 U.S.C. 675(5)(B) not less than once every one hundred eighty days to evaluate progress made toward meeting the goals set forth in the case plan.</p>	

	Section 10	<p>If desired by the young adult, the young adult shall be provided a court-appointed attorney who has received training appropriate to the role. The attorney's representation of the young adult shall be client-directed. For young adults who were appointed a guardian ad litem before the young adult attained nineteen years of age, the guardian ad litem's appointment may be continued, with consent from the young adult, but under a client-directed model of representation.</p> <p>The court has discretion to appoint a court appointed special advocate volunteer or continue the appointment of a previously appointed court appointed special advocate volunteer with the consent of the young adult.</p>	
	Section 17	Department shall create written notice of rights of young adults to extended services and provide it to juvenile prior to final hearing before the juvenile leaves foster care.	
255	Section 2	Being a trafficking victim is an affirmative defense from prosecution.	
		Person under 18 taken into custody for prostitution may be placed in custody of DHHS under Child Protection Act.	
	Section 3	Soliciting a person under 18 years of age is a Class IV felony (up from Class I misdemeanor).	
	Section 5	Keeping a place of prostitution which is used by person under 18 years of age is a Class IV felony (up from Class I Misdemeanor).	
	Section 6	Defines labor trafficking and sex trafficking.	
265		Children's Residential Facilities and Placing Licensure Act.	<b>May 26, 2013</b>
	Section 27	Any person who establishes, operates, or maintains a residential child-caring agency or child-placing agency subject to the Children's Residential Facilities and Placing Licensure Act without a license as required or who violates any of the provisions of the act shall be guilty of a Class I misdemeanor. Each day such person operates after a first conviction shall be considered a subsequent offense.	
269	Section 1	Caseplan/court reports will include juvenile's eligibility for health insurance, including Medicaid.	<b>June 5, 2013</b>
298		Changes controlled substance schedules.	<b>June 5, 2013</b>
311		The filing of the bond with the oath does not authorize a person to take any official	

		<p>action prior to the beginning of his or her term of office. In counties which provide a bond for county officers such county officers are not required to comply with the timing requirements with regard to their official bond but shall file their oaths of office in the proper offices prior to the beginning of their terms of office.</p>	
329		<p>When sentencing a person convicted of animal fighting, possession of animal fighting paraphernalia, cruelly mistreating animals or harassing a police animal, the court shall order a person convicted of a Class IV felony not to own, possess, or reside with any animal for at least five years but not more than 15 years after the date of conviction. Any person violating such court order shall be guilty of a Class I misdemeanor.</p> <p>If a person is convicted of a Class I misdemeanor or a Class III misdemeanor the sentencing court may order such person not to own, possess, or reside with any animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Violating such court order is a Class IV misdemeanor.</p>	
363		<p>A custodian is not required to copy any public record that is available to the requester on the custodian's web site on the Internet, unless the requester does not have reasonable access to the internet.</p> <p>Except as otherwise provided by statute, the custodian of a public record may charge a fee for providing copies of such public record or computerized printouts which fee shall not exceed the actual added cost of making the copies or printouts, including any additional payment obligation of the custodian for time of contractors incurred to comply with the request for copies.</p> <p>The cost of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees for the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours.</p> <p>The custodian of the record has 4 business days after receiving a written request to do an estimate.</p> <p>The requestor has 10 days after receiving the estimate to confirm that he/she does want the requested copies, or to narrow the request or cancel the request.</p>	
398		<p>The operator of a truck, truck-tractor or trailer can be cited for an overweight vehicle.</p>	

		<p>Instead of citing the driver, the owner of a truck, truck-tractor or trailer can receive a civil penalty from the Superintendent of Law Enforcement and Public Safety for an overweight vehicle.</p>	
423	Section 9	<p>After a livestock animal has been seized, the agency that took custody of the livestock shall, within seven days after the date of seizure, file a complaint with the district court in the county in which the animal was seized for a hearing to determine the disposition and the cost for the care of the livestock.</p> <p>Notice of hearing shall be given to the owner or custodian of livestock and any lien holder or security interest in livestock.</p> <p>Notice of hearing shall be served personal or residential service or certified mail.</p> <p>If notice can't be served by those methods, service may be made by publication in the county where livestock was seized.</p> <p>Hearing shall be held as soon as practicable and not more than 10 business days after the date of application for hearing, unless otherwise determined and ordered by the court.</p> <p>If the court finds the livestock was abandoned, cruelly neglected or mistreated, the court may:</p> <ul style="list-style-type: none"> <li>• Order immediate forfeiture of the livestock</li> <li>• Issue an order to the owner/custodian setting forth the conditions under which custody shall be returned.</li> <li>• Order the owner/custodian to post a bond, security or order payment in amount sufficient to reimburse all expenses</li> </ul> <p>Appeal of decision may be entered within 10 days after hearing.</p> <p>Person filing the appeal shall post a bond/security sufficient to pay reasonable costs of care for livestock for 30 days. Such payment is required for each succeeding 30 day period until appeal is final.</p>	
434		It is a Class III misdemeanor to acquire and disclose information from the Emergency	

		Management Registry.	
499		Game and Parks Commission may issue orders which can be prosecuted in the courts. The Court finding an individual guilty of violating one of these orders may include suspension of hunting or fishing permit in its sentence.	
545		A final order of the Public Service Commission regarding application or assessment under the Major Oil Pipeline Siting Act is appealed directly to the Court of Appeals. The appeal is heard do novo on the record, and does not stay the order of the Commission unless so ordered by the Court, except any appeal of a rate order under the State Natural Gas Regulation Act entered pursuant to section 66-1838 shall stay enforcement of such order pending resolution of the appeal.	
556		HHS will adopt and promulgate rules for using Telehealth to provide juvenile assessments and evaluations.	
561		Creates Office of Juvenile Services within the judicial branch. (See attached.)	<b>May 30, 2013</b>
616	Section 45	<p>Nebraska Money Transmitters Act.</p> <p>Any person violating the Nebraska Money Transmitters Act or who engages in any act, practice, or transaction declared by the Nebraska Money Transmitters Act to be unlawful is guilty of a Class III misdemeanor.</p> <p>A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under the act or who intentionally makes a false entry or omits a material entry in such a record is guilty of a Class I misdemeanor.</p> <p>An individual who knowingly engages in money transmission for which a license is required under the act without being licensed under the act is guilty of a Class I misdemeanor.</p>	

## **LB 561 Summary**

LB 561 changes provisions and transfers responsibilities regarding the juvenile justice system.

- Section 1: Allows probation officers to have access to information in the tracking system of child protection cases and the central register of child protection cases.
- Section 2: Removes requirement for the court to order OJS evaluation in a criminal case after Oct. 1, 2013 when committing a person under 18 to OJS. Operative 10/1/13.
- Section 3: Requires Probation to be responsible for preadjudication juvenile supervision as ordered by the court. Operative 10/1/13.
- Section 4: Requires district probation officers to supervise delivery of preadjudication juvenile services. Operative 10/1/13.. Requires district probation officers to participate in juvenile pretrial diversion programs as requested by the county attorney and approved by the judges in the probation district.
- Section 5: Requires county courts and district courts to conduct termination of parental rights proceedings as provided in the Nebraska Juvenile Code.
- Section 6: Adds definitions to the Juvenile Code for “Custodian,” “guardian,” “legal custody,” “physical custody” and “staff secure juvenile facility.” Amends the definition of “parent.”
- Section 7: Removes language to harmonize with section 5 of the bill.
- Section 8: Provides catch all language to ensure that appropriate dispositions are made during the transition to expand the Nebraska Juvenile Services Delivery Project.
- Section 9: Prohibits a juvenile alleged to be mentally ill and dangerous from being placed in a staff secure juvenile facility.
- Section 10: Removes exception for youth under 14 to be placed at a YRTC and prohibits secure detention or placement at a YRTC unless necessary for the protection of the juvenile, another person or property or the juvenile is a flight risk.
- Section 11: Provides that beginning Oct. 1, 2013 and pending adjudication, no juvenile alleged to be a law violator, status offender or traffic violator shall be placed with HHS. Also, a juvenile may be supervised by Probation as ordered by the court and agreed to by the parties. Operative 10/1/13.
- Section 12: Provides that beginning Oct. 1, 2013 and pending adjudication, no juvenile alleged to be a law violator, status offender, or traffic violator shall be placed with HHS for evaluation. The court may order a preadjudication evaluation of such a juvenile to be provided by Probation. Operative 10/1/13.



- Section 13: Provides that preadjudication placements and supervision shall not occur in secure detention or at a YRTC unless necessary for the protection of the juvenile, another person or property or the juvenile is a flight risk.
- Section 14: Provides that diversion shall be offered prior to filing when practicable. Provides that diversion programming shall include screening services.
- Section 15: Changes terms to allow more flexibility.
- Section 16: Changes reporting date from Dec. 1 to Jan. 1 for diversion program reports and requires the report be provided to the Director of Juvenile Diversion Programs instead of the Crime Commission. Requires the Director to compile and maintain the data.
- Section 17: Harmonizes with sections 5 and 7 of the bill.
- Section 18: Clarifies the rights of various parties in child welfare cases and termination of parental rights cases. Clarifies that there is no default right for a stepparent, custodian or guardian to a court-appointed attorney unless there is an allegation against them in the petition.
- Section 19: Provides that beginning Oct. 1, 2013, no juvenile adjudicated as a law violator, status offender or traffic violator shall be placed with HHS or OJS for evaluation. The court may order an evaluation of such a juvenile to be provided by Probation. The evaluation must be completed in 21 days. Operative 10/1/13.
- Section 20: Provides that beginning Oct. 1, 2013, no juvenile adjudicated as a status offender or traffic violator shall be placed with HHS. Operative 10/1/13.
- Section 21: Harmonizes with sections 5 and 7 of the bill.
- Section 22: Provides that beginning Oct. 1, 2013, HHS can no longer be ordered to prepare case plans for status offenders adjudicated under 3(b) of 43-247. Operative 10/1/13.
- Section 23: Eliminates OJS for community supervision as a dispositional placement option for law violators and traffic violators beginning Oct. 1, 2013. Eliminates HHS as a dispositional placement option for status offenders beginning Oct. 1, 2013. Creates intensive supervised probation as the dispositional option to place a juvenile at a YRTC if all levels of probation supervision and options for community-based services have been exhausted. Operative 7/1/2013
- Section 24: Allows a staff secure juvenile facility to inspect a sealed juvenile record of an individual placed there.
- Section 25: Harmonizes sections.
- Section 26 – 43:  
Removes statutory authority of OJS over community supervision, evaluations and parole by July 1, 2014. OJS will continue to supervise juveniles on parole who were committed to YRTC prior to July 1 2013. OJS will continue to supervise juveniles in

the community who are committed prior to Oct. 1, 2013. OJS will continue to provide evaluations to juveniles placed prior to Oct. 1 2013. OJS will continue to operate the YRTC's and supervise the juveniles placed there throughout the transition. Operative dates vary.

- Section 44: Harmonizes with sections 5 and 7 of the bill.
- Section 45: Renames the County Juvenile Services Aid Program as the Community-based Juvenile Services Aid Program and expands coverage to tribes.
- Section 46: Refines the list of programs and services for which Commission Grant Program dollars can be used.
- Section 47: Requires additional consultation with the Crime Commission in promulgating rules and regulations for the grant process as well as developing a system to monitor and evaluate how the grant dollars are used. Places additional requirements on the comprehensive juvenile services plans. Establishes the position of the Director of the Community-based Juvenile Services Aid Program and describes responsibilities.
- Section 48: Refines the list of programs and services for which Community-based Juvenile Services Aid Program dollars can be used and how recipients should prioritize the distribution of the aid. Creates an exception to allow aid recipients to use the aid dollars to pay for additional probation offices needed to implement this bill. Requires additional consultation with the Crime Commission in promulgating rules and regulations for the Community-based Juvenile Services Aid Program process and places additional reporting requirements on the Crime Commission.
- Section 49: Provides that Coalition for Juvenile Justice members who are members of the Judicial Branch will be nonvoting. Adds members to the coalition.
- Section 50: Removes language requiring the Coalition for Juvenile Justice to make recommendations to OJS.
- Section 51: Harmonizes with section 6 of the bill.
- Section 52: Harmonizes with section 45 of the bill.
- Section 53: Establishes the position of the Director of Juvenile Diversion Programs within the Crime Commission and describes responsibilities.
- Section 54: Creates the Community and Family Reentry Process to be administered by the Office of Probation Administration in cooperation with OJS for the purpose of promoting safe and Operative reentry to the community for youth leaving a YRTC.
- Section 55: Describes the intent of the Legislature to expand the Nebraska Juvenile Service Delivery Project statewide by July 1, 2014 and for the OJS to continue operating the YRTC's. Provides for the establishment of a formal information sharing process between HHS, Probation and the Crime Commission. Describes the intent of the Legislature regarding the cost of detention as many responsibilities of OJS, including paying for juveniles in

its custody to be detained, get eliminated in the transition of cases to Probation.

Section 56: Places additional responsibilities on the OJS sub-committee of the Children's Commission to expand its scope of study, collaborate with other entities and provide recommendations to the Judiciary Committee of the Legislature by December 1, 2013.

Section 57 – 62:

Provides Inspector General with investigative authority over private agencies that contract with Probation for the delivery of juvenile services when there is a death or serious injury or a complaint against such agency. Provides Inspector General authority to investigate deaths or serious injuries at juvenile detention facilities and staff secure juvenile facilities. Provides the Ombudsman with investigative authority over juvenile committed to and discharged from a YRTC to the Family Community Reentry Program.

Section 63: Adds the chairperson of the Nebraska Coalition for Juvenile Justice as the nineteenth member of the Crime Commission.

Section 64: Adds a tenth member to the Jail Standards Board to represent staff secure juvenile facilities.

Section 65: Provides a definition of staff secure juvenile facility for purposes of statutes regulating the operation of state detention facilities.

Section 66: Places staff secure juvenile facility under the regulatory authority of the Jail Standards Board.

Section 67: Harmonizes with section 66 of the bill.

Section 68: Harmonizes with section 66 of the bill.

Section 69: Harmonizes with section 66 of the bill.

Section 70: Harmonizes with section 66 of the bill.

Section 71: Requires DHHS to convene a group of stakeholders and families to develop a model for an alternative response to reports of child abuse or neglect. The model must be presented in a report to the Children's Commission by November 1, 2013 and to the Legislature by December 15, 2013.

Section 72: Repeals amended sections of statute.

Section 73: Emergency Clause